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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/867,174	05/29/2001	Robert H. Scheer	31083.05US2	6795
34018 7590 12/27/2004 GREENBERG TRAUIG, LLP 77 WEST WACKER DRIVE SUITE 2500 CHICAGO, IL 60601-1732			EXAMINER GARG, YOGESH C	
			ART UNIT 3625	PAPER NUMBER

DATE MAILED: 12/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/867,174	SCHEER, ROBERT H.	
	Examiner	Art Unit	
	Yogesh C Garg	3625	<i>NW</i>

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 October 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 11-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Amendment***

1. The applicant's amendment received on 10/12/2004 is acknowledged and entered. The applicant has cancelled claims 1-10 and amended claims 11-20. Currently claims 11-20 are pending for examination.

### ***Response to Arguments***

2.1 In view of cancellation of claims 1-10, their rejection under 35 U.S.C. 101 has been withdrawn.

2.2 Applicant's arguments filed 10/12/2004 with respect to the currently amended claims 11-20 have been fully considered but they are not persuasive for following reasons:

The applicant argues, see Remarks page 6, line 22-page 7, line 18 that the reference Shekhar does not suggest "evaluating each of a plurality of alternative fulfillment plans constructed in response to a receipt of a order for an item against a predetermined criteria to thereby select for implementation the one of constructed plurality of alternative fulfillment plans that most closely meets the predetermined criteria". The examiner respectfully disagrees. Shekhar suggests considering and evaluating plurality of alternative fulfillment plans against a predetermined criteria and select for implementation the one of constructed plurality of alternative fulfillment plans that most closely meets the predetermined criteria (see at

least page 2, paragraphs 0032- 0034, “ ..... *An order fulfillment 120 exchange information with master planning 102. In fulfilling an order based on the plan or plans produced by master planning 102, actions such as buy, make, and move may be taken .....*”. Note: Master plan module 102 prepares a plurality of plans [corresponds to alternative plans as these plans are based upon alternative steps of buying, making, moving the item, etc.] and based on these alternative plans the fulfillment plans are constructed, which would in fact result in a plurality of fulfillment plans. Further these fulfillment plans are evaluated, see at least pages 4-5, paragraphs 0057-0061, “ *Once a plan is regenerated a user may want to evaluate it for its “ goodness” ....FIG.5 shows tools that may be provided to assist user in evaluating results of a plan execution....After repair and review of the plan, a user may publish the plan, for example, to relational database .....* ”. Note: As analyzed above the master planning tool kit 102 can generate alternate fulfillment plans and these plans can be evaluated and then after evaluating a plan is finally selected and then published in a database for execution).

In view of the foregoing, the currently amended claims are still anticipated by the prior art demonstrated by the reference Shekhar. It is a Final Office action.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section

351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 11-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Shekhar .

Regarding claim 11, Shekhar teaches a computer readable media having instructions for use in selecting a fulfillment plan for moving an item within a supply chain (see at least page 2, paragraphs 0028-0034), the instructions performing steps comprising:

receiving an order for an item (see at least FIG.1, " 110 Order Commitment" and page 2, paragraphs 0033- 0034, " *An order commitment 110, by communicating with master plan 102 ...to ensure accurate commitment responses.....An order fulfillment 120 exchange information*" suggest receiving orders for items;

in response to receipt of the order for the item constructing a plurality of alternative fulfillment plans for moving the item from a sourcing point to one or more geographic locations within the supply chain (see at least page 2, paragraphs 0032-0034, " ..... *An order fulfillment 120 exchange information with master planning 102. In fulfilling an order based on the plan or plans produced by master planning 102, actions such as buy, make, and move may be taken .....corresponding to a purchasing 131, production 132, and transportation 133, respectively. The order fulfillment 120 may include a pre-order fulfillment 120A and an integrated order fulfillment 120B. [0035] FIG. 2 is a flow diagram showing operations involved in one embodiment of the present invention. At step 200, static planning data is created and/or revised. To accurately*

*model a supply chain at the planning stage, one may consider various static and dynamic factors.*

*Static factors may include locations, items, stock keeping unites ("SKUs"), recourses, lanes, processes, bill of materials, bill of routing, etc. Dynamic factors may include shipping and receiving calendars, effectivity calendars, manufacturing availability calendars, constraint settings, etc. These factors may be revised to accurately reflect the current status of the supply chain. .".* Note: Master plan

module 102 prepares a plurality of plans [corresponds to alternative plans as these plans are based upon alternative steps of buying, making, moving the item, etc.] and based on these alternative plans the fulfillment plans are constructed, which would in fact result in a plurality of fulfillment pans Note: plans produced by master planning module 102 reads on the claimed limitation);

evaluating each of the constructed plurality of alternative fulfillment plans against a predetermined criteria and selecting for implementation one of the constructed plurality of alternative fulfillment plan that most closely meets the predetermined criteria, the selected one of the plurality of alternative fulfillment plan being used to position the item at a geographic location within the supply chain thereby making the item available for use in meeting the order (see at least pages 4-5, paragraphs 0057-0061, "*Once a plan is regenerated a user may want to evaluate it for its "goodness"....FIG.5 shows tools that may be provided to assist user in evaluating results of a plan execution...After repair and review of the plan, a user may publish the plan, for example, to relational database .....*". Note: As analyzed above the master planning tool kit 102 can generate alternate fulfillment plans and these plans can be evaluated and then after evaluating a plan is finally selected and then published in a database for execution).

Regarding claim 12, Shekhar teaches further using a customer specified level of service when constructing the plurality of alternative fulfillment plans (see at least page 2, paragraph 0037, " ... *A user may set up rules and strategies to meet his or her business objectives.....* ".

Regarding claim 13, Shekhar teaches further using branch and bound techniques to determine candidate sourcing points for the item when constructing the plurality of alternative fulfillment plans (see at least page 2, paragraph 0031, " ..... *In FIG. 1, supply is created within the boundaries of some agreed policies and constraints to optimize the plan across all aspects of an organization's supply chain as explained in detail below.....* ".

Regarding claim 14, Shekhar teaches further using a customer specified point of delivery when constructing the plurality of alternative fulfillment plans (see at least page 3, paragraph 0044, " *An optimized plan (or a master plan) produced by the present invention may explain how to allocate and coordinate limited resources based upon user-defined strategies that may contain information regarding customer, item, and location prioritization* " , and page 23, paragraph 0210, " *When promising and planning supply for customer order, it is sometimes desirable for all of the supply used to meet the demand to come from one, and only one, source location. In one embodiment of the present invention, a user may designate whether the order should have a single source.* " . Note: the location or source location corresponds to delivery location which is to be considered while constructing the fulfillment plans.).

Regarding claim 15, Shekhar teaches further comprising the step of using a

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customer specified delivery date when constructing the plurality of alternative fulfillment plans (see at least page 23, paragraphs 0209-0211, “ **A user may want to specify acceptable delivery dates for an order.** ... *This delivery date information may be tied to the order line item and/or the order header to ensure that master planning does not contradict the promise.....*”).

Regarding claim 16, Shekhar teaches further comprising the step of using various combinations of sourcing points within the supply chain when constructing the plurality of alternative fulfillment plans (see at least page 7, paragraph 0082, “*For example, as shown in FIG. 7A, a finished good item may be produced using resources A, B, and C in that order. Master planning may place all the load for a supply order of the item on these resources A, B, C and pass the information to the scheduling system.*”

Regarding claim 17, Shekhar teaches further comprising the step of using customer specified consolidation requirements when constructing the plurality of alternative fulfillment plans (see at least page 7, paragraphs 0083-0085, “ **Aggregate SKU Planning** ..... *When planning production of multiple SKUs, there may be a need to group the production of certain SKUs together. ....An aggregate SKU planning of the present invention is a feature that allows users to plan for item or product families.....*” . Note: Aggregating planning corresponds to consolidating requirements .).

Regarding claim 18, Shekhar teaches further comprising the step of using



activity costs when constructing the plurality of alternative fulfillment plans ( see at least page 2, paragraph 0036, “ *At step 205, planning rules may be created by applying objectives and strategies. Objectives and strategies may be used as a basis to measure critical success factors. Success factors may be based on cost (revenue or margin),* ”, and page 3, paragraph 0042, “ *At step 330, details of plan performance may be analyzed. At this step, one may take into account such factors as ..... and cash flow performance 334. .... The cash flow performance 334 (or profit/loss performance) may include factors such as cash-flow-in (e.g., sales revenue, forecasted revenue), cash-flow-out (e.g., operating cost, total purchasing cost), .....”).*

Regarding claim 19, Shekhar teaches further comprising the step of using inventory age when constructing the plurality of alternative fulfillment plans (see at least page 4, paragraph 055, “ *Master planning may provide a user a workflow to generate a plan. This workflow may include two types of planning processes--a regenerative process and a repair process. .... On a day-to-day basis, the user may use the repair process to effect certain changes to the plan such as a new inventory update, changes to scheduled supplies, updates to the demands, etc. The output of both the regenerative process and the repair process is a supply plan to meet demands* ”. Note: updating the inventory corresponds to considering the inventory age in generating fulfillment plans).

Regarding claim 20, Shekhar teaches further comprising the step of using a customer specified price quote when evaluating the constructed plurality of alternative fulfillment plans against a predetermined criteria (see at least page 3, paragraph 0042, “ *..At this step one may take into account such factors as delivery performance.....customer orders [e.g.,*

*sales revenues.....*” Note: consideration of customer orders correspond to consideration of custom specified price quotes because those orders include prices, delivery conditions, etc.).

### ***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh C Garg whose telephone number is 703-306-0252. The examiner can normally be reached on M-F(8:30-4:00).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 703-308-1344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yogesh C Garg  
Examiner  
Art Unit 3625

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December 14, 2004



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